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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/500,460 02/09/00 LLOYD

S TPP 30555A

EXAMINER

PM82/0302

Thomas P Pavelko Esq
Stevens Davis Miller & Mosher L L P
1615 L Street N W
Suite 850
Washington DC 20036

SCHLAK, D

ART UNIT

PAPER NUMBER

3653
DATE MAILED:

03/02/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/500,460

Applicant(s)

Lloyd

Examiner

Daniel K Schlak

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claims 1-23 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____
- 18) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claim 1, drawn to Group I, classified in class 141, subclass 29.
Method for filling a single container and subsequently sealing the container.
- II. Claim 2-4, 9-10, and 22, drawn to Group II, classified in class 141, subclass 129 and/or 234. Additional searches will be in 141/234 and 141/374. All four subclasses listed in this group deal particularly with the serial and/or batch filling of several containers by the same source, with or without specialized connection and conveying means.
- III. Claim 5, drawn to Group III, classified in class 141, subclass 353. Method for discharging a single container and subsequently sealing the container.
- IV. Claim 6-8 and 23, drawn to Group IV, classified in class 141, subclass 246 and/or 365. Method for discharging a series of containers to a single receptacle. Again, further search and specialized subclasses exist for the performance of the same action on plural containers.
- V. Claims 11-16, drawn to Group V, classified in class 588, subclass.
Container apparatus, with material specifications.
- VI. Claims 17-20, drawn to Group VII, classified in class 34, subclass 242.
Heat sealing apparatus.

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- VII. Claim 21, drawn to Group VIII, classified in class 141, subclass 329 and/or 330. Rodding apparatus to aid transfer of particulates.

The inventions are distinct, each from the other because of the following reasons:

Inventions II and I are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the subcombination mentions sealing and is performed without inert gas and/or charging sleeve and/or multiple attaching points.

Inventions IV and III are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). The relationship between combination and subcombination are the same as that between groups I and II.

Inventions (I II) and (III IV) are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention (III IV) has separate utility such as discharging (as opposed to charging). See MPEP § 806.05(d).

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Inventions (I, II, III, IV) and V are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the container has multiple purposes, and the processes do not require "an antistatic agent" or polyethylene, PPE, etc.

Inventions (I-IV and VI) are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the heat sealing apparatus has many different applications, and the processes could be performed by any number of other heat sealing apparatus.

Inventions (I-IV and VII) are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). The differences are similar to the preceding paragraph.

Inventions V and VI and VII are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, all three inventions have completely separate utility, whether used in the same process or not. Quite simply, a container is not the same invention as a heat-sealing apparatus, and both are

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completely diverse from a rodding apparatus, regardless of their ability to be used together to a common goal. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and the search required for any of the groups is not required for the other groups, with the exception of Groups I and II, and Groups III and IV. Restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel K Schlak whose telephone number is 703 - 305 - 0885. The examiner can normally be reached on Mon-Thurs.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 308 - 1113.

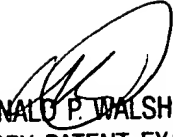
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February 26, 2001



DONALD P. WALSH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600